

#1490

200233-016

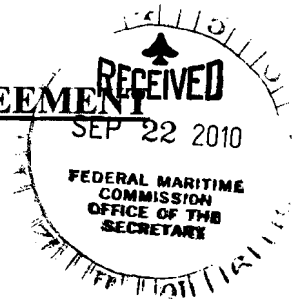
**NINTH AMENDMENT OF LEASE AND OPERATING AGREEMENT**

**Parties:**

Philadelphia Regional Port Authority  
3460 N. Delaware Avenue, 2<sup>nd</sup> Floor  
Philadelphia, PA 19134 ("Lessor")

&

Astro Holdings, Inc.  
P.O. Box 8778  
Philadelphia, PA 19101 ("Lessee")



**Lease History:**

Lease & Operating Agreement

First Amendment:

Second Amendment:

Third Amendment:

Fourth Amendment:

Fifth Amendment:

Sixth Amendment:

Seventh Amendment:

Eighth Amendment:

**Filed with FMC**

March 5, 1991

December 9, 1993

March 5, 2001

August 28, 2001

December 14, 2001

May 31, 2002

December 18, 2002

March 15, 2004

July 7, 2004

**FMC Reference No:**

224-200233-007

224-200233-008

224-200233-009

224-200233-010

224-200233-011

224-200233-012

224-200233-013

224-200233-014

224-200233-015



The Lease & Operating Agreement, as amended by the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Amendments, is hereinafter collectively referred to as the "Lease".

**Background:**

The parties desire to amend that provision of the Lease entitled "Breakbulk Cargo Fees".

**NOW, THEREFORE**, intending to be legally bound hereby and in exchange for good, valuable and sufficient consideration received, Lessor and Lessee covenant and agree as follows:

1. Effective Date. This Ninth Amendment to Lease and Operating Agreement ("Amendment") shall become effective on the date on which an executed copy hereof is filed with the FMC in accordance with the Shipping Act of 1984. Lessor shall cause this Amendment to be filed with the FMC promptly following the execution and delivery hereof.

2. Definitions. Unless otherwise defined in this Amendment, all terms defined in the Lease shall have the meanings ascribed to them in the Lease when used in this Amendment.

3. Break Bulk Cargo Fees. Section 3.1 (d) of the Lease is amended and restated in its entirety as follows:

(d) Breakbulk Cargo Fees. The Breakbulk Cargo Fee shall be equal to the sum of the (i) Temperature Controlled Breakbulk Cargo Fees, (ii) Breakbulk Steel Cargo Fees, (iii) General Breakbulk Cargo Fees, (iv) Wheeled Military Cargo Fees and (v) Wheeled Nonmilitary Cargo Fees with such category of fees defined below:

(i) Temperature Controlled Breakbulk Cargo Fees. The product of \$1.50 multiplied by the number of tons of temperature controlled breakbulk cargo moved onto or off any and all vessels at the Terminal during the preceding month.

(ii) **Breakbulk Steel Cargo Fees.** The Product of \$.20 multiplied by the number of tons of breakbulk steel, iron, aluminum, zinc, copper and other metal ingots, sheets, rods, bars, coils and similar products moved onto or off any and all vessels at the Terminal during the preceding month.

(iii) **General Breakbulk Cargo Fees.** The Product of \$.70 multiplied by the number of tons of all other types of breakbulk cargo not specified elsewhere in this subparagraph 3.1(d) moved onto or off any and all vessels at the Terminal during the preceding month.

(iv) **Wheeled Military Cargo Fees.** With respect to each unit (driven or towed) of wheeled military cargo (classified as such by any branch of the United States Military), including any cargo nested therein moved onto or off any and all vessels at the Terminal during the preceding month: (A) \$8.00 per unit for equipment weighing ten thousand (10,000) pounds or more (including the weight of any nested cargo), and (B) \$4.00 per unit for equipment weighing less than ten thousand (10,000) pounds (including the weight of any nested cargo).

(v) **Wheeled Nonmilitary Cargo Fees.** With respect to each unit (driven or towed) of wheeled nonmilitary cargo, for passenger type automobiles only, and any cargo nested therein, moved onto or off any and all vessels at the Terminal during the preceding month: \$1.50 per unit

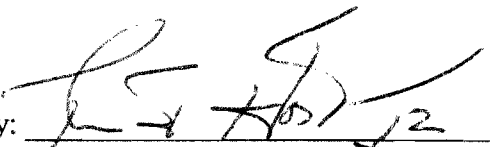
The Breakbulk Cargo Fee shall equal the sum of (i) – (v) above. At such time, if any, that the Breakbulk Cargo Fee paid by Astro for a Lease Year equals the Breakbulk Guarantee (as defined in subsection 3.1(e) below), then no additional Steel Cargo Fees or General Breakbulk Cargo Fees shall be due for the remainder of the Lease Year. Payments due on account of Wheeled Military Cargo shall be made as follows: on or before the fifteenth (15<sup>th</sup>) day of each month, Astro shall pay its good faith estimate of the compensation due pursuant to 3.1(d)(iv) for the preceding month for said Wheeled Military Cargo. Within thirty (30) days thereafter, Astro shall reconcile its good faith estimate with the records of the US military, copies of which shall be provided to PRPA. Based upon said reconciliation, Astro shall either reduce the current month's payment by the amount of any overpayment made the previous month or add to the following month's payment any amount by which the previous month's payment was deficient. In the event there is a dispute as to fees due with regard to Wheeled Military Cargo, the parties agree that the amounts appearing on military schedule 1A1 shall control.

4. **Lease Remains in Effect.** The Lease, as amended hereby, shall remain in full force and effect and time remains of the essence of the Lease and this Amendment. In the event of any conflict or any inconsistencies between the terms of the Lease and the terms of this Amendment, the terms of this Amendment shall govern and control.

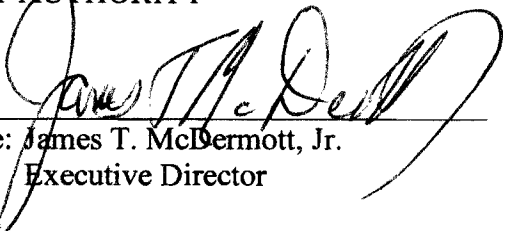
5. **Execution in Counterparts.** This Amendment may be executed in counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Ninth Amendment as of the date first above written.

ASTRO HOLDINGS, INC.

By:   
Name: Thomas J. Holt, Jr.  
Title: President

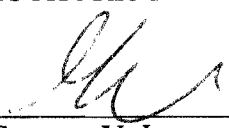
PHILADELPHIA REGIONAL  
PORT AUTHORITY

By:   
Name: James T. McDermott, Jr.  
Title: Executive Director

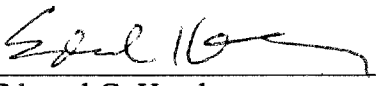
Approved as to Legality  
and Form:

Approved as to Propriety and  
Availability of Funds:

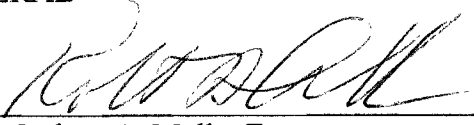
PHILADELPHIA REGIONAL  
PORT AUTHORITY

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PHILADELPHIA REGIONAL  
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By:   
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Funding

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GENERAL

By:   
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OFFICE OF THE BUDGET

By:   
Name: Joseph Lawruk  
Title: Comptroller